

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1204 of 1997

with

Civil Application No.9076 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgment?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GRAM PANCHAYAT, NANI PALIYAD

Versus

GAUTAMJATI MAGANJATI GOSAI

Appearance:

MR RE VARIAVA for the Petitioner.

MR ATUL G BAROT for Respondent Nos. 1-9

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/03/2004

ORAL JUDGEMENT

By filing this revision, the petitioner-defendant has challenged the order passed by the appellate court, by which the appellate court, while deciding the appeal under Order 43 of the Code of Civil Procedure, granted injunction in favour of the original plaintiff. By the

impugned order, the appellate court has restrained the defendants from collecting the amount of octroi from the present respondents, i.e. original plaintiffs of the suit. While admitting the revision, this Court has also stayed the order of the appellate court. However, considering the fact that the present revision is filed against an interlocutory order in the suit, in view of the amendment in Section 115 of the Code of Civil Procedure, the revision is not maintainable. This CRA is, therefore, required to be rejected on the ground of maintainability and it is accordingly rejected.

It is, however, clarified that it would be open for the petitioner to challenge the impugned order of the appellate court by filing a Special Civil Application under Article 227 of the Constitution of India. It is further clarified that this Court has not expressed any opinion on the merits of the issue. In order to enable the petitioner to challenge the impugned order by filing appropriate petition, the interim relief granted by this Court is extended upto 15th April, 2004.

Subject to what is stated above, the revision is rejected on the ground that the same is not maintainable. Rule is discharged. No order as to costs.

In view of the above order, no order in Civil Application No.9076 of 1998.

1st March, 2004 (P.B. Majmudar, J.)

(apj)